

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

HAROLD HARRIS; PASTOR ROBERT
TIPTON, JR.; DELTA SIGMA THETA
SORORITY, INC., DESOTO COUNTY
MS NAACP UNIT 5574

Plaintiffs,

v.

No. 24-cv-289-GHD-RP

DESOTO COUNTY, MISSISSIPPI;
DESOTO COUNTY BOARD OF
SUPERVISORS; DESOTO COUNTY
ELECTION COMMISSION; and DALE
THOMPSON in her official capacity as
DeSoto County Circuit Clerk.

Defendants.

**PLAINTIFFS' RESPONSE TO
DEFENDANTS' MOTION TO DISMISS**

Pursuant to Local Rule 7(b), Plaintiffs Harold Harris, Pastor Robert Tipton, Jr., Delta Sigma Theta Sorority, Inc., and the DeSoto County NAACP Unit 5574 respectfully submit this response to Defendants' Motion to Dismiss Plaintiffs' Complaint, ECF No. 36, in the above-captioned matter. For the reasons detailed below and in the memorandum that accompanies this response, Plaintiffs request that the Court deny Defendants' Motion to Dismiss.

Plaintiffs have alleged that the lines that govern the districts for DeSoto County's county offices violate Section 2 of the Voting Rights Act. Despite constituting around a third of the County's population, there are no Black-preferred candidates elected to the twenty-five positions in the five offices—Board of Supervisors, Board of Education, Election Commission, Justice

Court, and Constable—governed by these district lines. This result is due to the dilutive effect on Black voting power of the district lines.

Defendants raise three bases for dismissal in their Motion to Dismiss. Each is meritless. First, the Circuit Clerk is a proper Defendant. State law charges her with administering County elections under the challenged 2022 redistricting plan. Plaintiffs' injury is therefore traceable to and redressable by the Circuit Clerk who is sued in her official capacity. Second, Plaintiffs have sufficiently pled their claims. Defendants wrongly either ignore or misread key factual allegations in the Complaint. Finally, binding precedent forecloses Defendants' argument that Section 2 lacks a private right of action. *Robinson v. Ardoin*, 86 F.4th 574, 588 (5th Cir. 2023).

Accordingly, Plaintiffs respectfully request that the Court deny Defendants' motion.

Dated: December 6, 2024

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CERTIFICATE OF SERVICE

I, Daniel J. Hessel, do certify that on this day I filed the foregoing with the ECF System which sent notification to all counsel of record.

This the 6th day of December, 2024.

/s/ Daniel J. Hessel
Daniel J. Hessel